

Civil Writ Petition No. 13022 of 2016

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No. 13022 of 2016

Date of Decision: 18.10.2016

M/s Harbans Fuel Industries, Jalaleana Road, Kotkapura, District Faridkot
through its Sole Proprietor Sushil Kumar

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Aakash Singla, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the alleged inaction on the part of the respondent authorities, petitioner has approached this Court by way of present writ petition seeking a writ in the nature of Mandamus.

Heard learned counsel for the petitioner.

It is a matter of record that vide its legal notice dated 14.6.2016 (Annexure P-8), petitioner is seeking release of incentives allegedly sanctioned in its favour way back on 13.10.1997.

During the course of hearing, when confronted with the inordinately long and completely unexplained delay of 18 years in approaching this Court by way of instant writ petition, learned counsel for

Civil Writ Petition No. 13022 of 2016

the petitioner had no answer and rightly so, it being a matter of record. The claim of granting incentive, if any, in favour of the petitioner was on the basis of policy issued vide notification dated 1.6.1996 (Annexure P-1). So far as exemption in the tax was concerned, exemption certificate was issued in favour of the petitioner on 6.8.1998 (Annexure P-4).

In case the petitioner was not satisfied either from issuance of the exemption certificate (Annexure P-4) or resultant benefit arising therefrom, it was least expected from the petitioner to approach the learned court of competent jurisdiction within a reasonable period. However, petitioner kept on sleeping over its rights, if any. No explanation is forthcoming as to why the petitioner could not pursue its remedy at an earlier point of time, by initiating appropriate litigation against the respondents, in accordance with law.

Further, it is a money claim and the petitioner is seeking release of alleged amount on account of incentives in its favour, by way of present writ petition, which would amount to a suit for recovery, besides it being a stale claim. In this view of the undisputed fact situation obtaining on the record of the present case, this Court would be exceeding its writ jurisdiction under Articles 226/227 of the Constitution of India, while entertaining such a claim of money recovery and that too, at such a belated stage.

This Court repeatedly asked learned counsel for the petitioner to give any reasonable explanation for this inordinate delay of more than 18 long years, but he miserably failed to give any reasonable explanation in this regard, leaving hardly any scope for interference at the hands of this Court, while exercising its extra-ordinary writ jurisdiction. Under these circumstances, entertaining such a writ petition by this Court would amount

Civil Writ Petition No. 13022 of 2016

to revival of stale claim and that too, a money claim. It is not even argued or pleaded case on behalf of the petitioner that it was not aware about its rights in this regard, or there was any other difficulty faced by the petitioner in pursuing its remedy, if any, in accordance with law.

The abovesaid view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court in **B.S.Bajwa and another Vs. State of Punjab and others, (1998) 2 SCC 523; Union of India and others Vs. A. Durairaj (dead) by Lrs, (2010) 14 SCC 389; Londhe Prakash Bhagwan Vs. Dattatraya Eknath Mane and others, 2013 (10) SCC 627; Government of India and another Vs. George Philip (2006) 13 SCC 1 and Chennai Metropolitan Water Supply and Sewerage Board and others Vs. T.T.Murali Babu, 2014 (4) SCC 108.**

The relevant observations made by the Hon'ble Supreme Court in para 16 of the judgment in **T.T. Murali Babu's case** (supra), which can be gainfully followed in the present case, read as under:-

“Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis is at a belated stage

should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others’ ripened rights and may unnecessarily drag others into litigation which in acceptable realm of

Civil Writ Petition No. 13022 of 2016

probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons – who compete with ‘Kumbhakarna’ or for that matter ‘Rip Van Winkle’. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.”

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

18.10.2016
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No